

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

<p>In re: FEDERAL RESOURCES CORPORATION and CAMP BIRD COLORADO, Inc.</p>	<p>Jointly Administered under Bankruptcy Case No. 14-33427</p> <p>(Chapter 11) Judge Joel T. Marker</p> <p>THIS DOCUMENT RELATES TO:</p> <p><input checked="" type="checkbox"/> In re Federal Resources Corporation <input type="checkbox"/> In re Camp Bird Colorado, Inc. <input type="checkbox"/> Both Debtors</p>
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PROOF OF CLAIM OF THE UNITED STATES

1. This Proof of Claim is filed by the United States at the request of the United States Environmental Protection Agency (“EPA”) and the United States Forest Service (“Forest Service”) against Debtors, Federal Resources Corporation (“FRC”) and Camp Bird Colorado, Inc. (“CBCI”). The Attorney General is authorized to make this Proof of Claim on behalf of the United States.

2. This Proof of Claim relates to obligations and liabilities of FRC and CBCI pursuant to both the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. §§ 9601 et seq., and to a civil judgment the United States received against FRC and CBCI in the United States District Court for the District of Idaho.

3. Pursuant to Section 107 of CERCLA, costs incurred by the United States to respond to releases or threatened releases of hazardous substances at or from a facility will, whenever possible, be recovered from the responsible parties, including: (1) current owners or

operators of facilities where hazardous substances are disposed, (2) former owners or operators of facilities where hazardous substances were disposed; and (3) persons who “arranged” for treatment or disposal of hazardous substances taken to a facility. See 42 U.S.C. § 9607(a).

4. In this Proof of Claim, the United States is asserting claims against FRC and CBCI relating to four separate properties: the Conjecture Mine Site in Bonner County, Idaho, the Minnie Moore Mine Site in Blaine County, Idaho, the Haystack Mines Site in McKinley County, New Mexico, and the Camp Bird Mine Site near Ouray, Colorado.

5. EPA is asserting claims against FRC and CBCI at all four sites.

6. The Forest Service is asserting a claim against FRC and CBCI, in accordance with the Idaho Court judgment, only at the Conjecture Mine Site.

Final Judgments in Idaho District Court

7. On January 12, 2015, in a CERCLA cost recovery action filed on behalf of EPA and the Forest Service, the United States obtained a final judgment from the United States District Court for the District of Idaho against FRC, CBCI, Mr. Bentley Blum, and the Blum Real Estate Trust relating to the Conjecture Mine Site and the Minnie Moore Mine Site. Specifically, the Idaho Court found that (1) FRC was liable under Section 107(a) of CERCLA; (2) the conveyance of CBCI, a wholly owned subsidiary of FRC, to the Blum Real Estate Trust, a trust controlled by Mr. Blum, violated the Federal Debt Collection Procedures Act; and (3) the corporate veils of FRC and CBCI should be pierced, allowing the United States to recover against Mr. Blum and CBCI for FRC’s debts at these Sites.

8. As to the Conjecture Mine Site, the Idaho Court specifically found that FRC and CBCI are jointly and severally liable under CERCLA to the United States for \$3,707,908.70 in

cleanup costs and interest through January 31, 2013, plus pre-judgment interest through the date of the final judgment (January 12, 2015) and entered a declaratory judgment in favor of the United States for response costs incurred since January 31, 2013, in responding to releases or threats of releases of hazardous substances at the Conjecture Mine Site.

9. As to the Minnie Moore Mine Site, the Idaho Court specifically found that FRC and CBCI are jointly and severally liable under CERCLA to the United States for \$698,431.92 in cleanup costs and interest through January 31, 2013, plus pre-judgment interest through the date of the final judgment (January 12, 2015) and entered a declaratory judgment in favor of the United States for response costs incurred since January 31, 2013, in responding to releases or threats of releases of hazardous substances at the Minnie Moore Mine Site.

10. In response to the United States' motion for summary judgment, FRC did not contest the claim associated with the Minnie Moore Mine Site. CBCI I not appeal the Idaho Court's judgment as to the Minnie Moore Mine Site.

11. FRC has appealed the Idaho Court judgment as to the Conjecture Mine. CBCI has not appealed that judgment.

12. This Proof of Claim is filed with respect to all obligations and liabilities of FRC and CBCI pursuant to the Idaho Court judgment.

Claims against FRC and CBCI at the Conjecture, Minnie Moore and Haystack Mines Sites

13. The grounds for liability against FRC and CBCI are based upon releases and threats of releases into the environment of hazardous substances¹ as a result of historical mining operations and/or waste disposal activities undertaken at three Superfund Sites: the Conjecture

¹ The term "hazardous substance" is used here as defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

Mine Site in Bonner County, Idaho, the Minnie Moore Mine Site in Blaine County, Idaho, and the Haystack Mines Site in McKinley County, New Mexico. These releases of hazardous substances have resulted in soil and surface water contamination at and subjacent to these Sites as well as possible contamination to water bodies near these sites. FRC was the owner and/or operator of these sites during disposal of such hazardous substances from these mining sites.

14. In accordance with the judgments issued by the Idaho Court, FRC is jointly and severally liable for all response costs incurred or to be incurred at the Conjecture Mine and Minnie Moore Mine Sites under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), because FRC is a former owner and/or operator of the Conjecture Mine and Minnie Moore Mine facilities at the time of disposal of hazardous substances, and/or is a person who arranged for disposal of a hazardous substance at these sites.

15. In accordance with the judgments issued in the Idaho Court, CBCI is liable for all response costs incurred or to be incurred by the United States at the Conjecture Mine and Minnie Moore Mine Sites as it is the alter ego of FRC.

16. CBCI is also liable for the response costs at the Conjecture and Minnie Moore Mine Sites in accordance with the guarantee executed by CBCI and attached as Exhibit C to the Stipulation and Proposed Order re Sequestration of Funds signed by FRC, CBCI and the United States. (Docket No. 184 in the Idaho Litigation).

17. The response costs incurred by the United States as to the Conjecture and Minnie Moore Sites are identified above at paragraphs 8 and 9.

18. The Haystack Mines Site is located atop the Haystack Butte, just south of Haystack Mountain, within the Baca/Prewitt Chapter of the Navajo Nation, approximately five

miles east of Prewitt, McKinley County, New Mexico. The Site consists of at least three adjacently located abandoned uranium mines (“AUM’s”), as well as adjoining areas where surface gamma activity was detected at elevated levels. The Site consists of approximately 174 acres; some of the Site area is currently used for livestock grazing and includes one residence. Approximately 10 residences and a church are located within one-quarter mile of the Site.

19. FRC is the successor to Federal Uranium Corporation (“FUC”) and Santa Fe Uranium Corporation (“Santa Fe”), both of which conducted mining operations at the mine known as Section 24, which is a part of the Haystack Mines Site. Beginning in 1954, Santa Fe leased the mineral rights for the NE ¼, Section 24, Township 13N, Range 11W (containing 160 acres) from the Indian allottee, Nanabeh Vandever. In 1955, when Santa Fe merged into FUC, FUC assumed the Section 24 lease from Santa Fe and continued to conduct mining operations on Section 24 until the lease was cancelled in 1959. In 1960, FUC was the surviving entity in a merger with Radorock Corporation and changed its name to Federal Resources Corporation.

20. Beginning in 1954, Santa Fe similarly leased the mineral rights on the contiguous SW ¼, Section 18, Township 13N, Range 10W of the Haystacks Mine Site and there it conducted mining operations as well. In 1955, again upon Santa Fe’s merger with FUC, the mining lease for Section 18 was transferred to FUC.

21. Based upon data collected indicating potential threats to human health and the environment from the former mining activities, the Navajo Nation requested assistance from EPA in performing a removal assessment at the Site. In 2009, EPA completed a Site Screen Report of the three AUMs. Soon thereafter, EPA designated the Haystack Mines Site a high priority. In 2014, EPA undertook a removal assessment, the results of which are documented in

a Removal Assessment Report. EPA Region 9 is in the process of preparing a Haystack Mines Site Action Memorandum to request approval for a time-critical removal action to address the most immediate needs at the Haystack Mines Site. In addition, EPA Region 9 anticipates the preparation of an Engineering Evaluation/Cost Analysis (“EE/CA”) to support an Action Memorandum for a non-time critical removal action that will address the long-term threats to human health and the environment at the Haystack Site.

22. To date, the United States has incurred approximately \$260,000 in costs responding to the Haystack Mines Site, which includes costs incurred by both EPA and the United States Department of Justice.

23. EPA anticipates that once the EE/CA is completed a future removal action will be required on the Site. Based on production records, type of mining activities, location of ore body and similar geologic formations of other Navajo Abandon Uranium Mines in the eastern agency of the Navajo Nation, EPA estimates that it will incur future response costs at the Haystack Mines Site between \$12,000,000 and \$22,500,000, if an on-site repository is used to store the uranium waste, or up to \$125,020,000 if off-site disposal is necessary.

24. FRC is jointly and severally liable for all response costs incurred or to be incurred at the Haystack Mines Site under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), because FRC is a former owner and/or operator of the Haystack Mines facility at the time of disposal of hazardous substances, and/or is a person who arranged for disposal of a hazardous substances at the site.

25. In accordance with the judgments issued by the Idaho Court, CBCI is liable for all response costs incurred or to be incurred at the Haystack Mines Site as it is the alter ego of FRC.

26. This Proof of Claim is filed with respect to all obligations and liabilities of FRC and CBCI pursuant to CERCLA, 42 U.S.C. §§ 9601 et seq. related to the Conjecture Mine, the Minnie Moore Mine, and Haystack Mines Sites.

Protective Filing as to Liabilities of FRC and CBCI as to the Camp Bird Mine Site

27. The grounds for liability against FRC and CBCI at the Camp Bird Mine Site are based upon releases and threats of releases of hazardous substances into the environment as a result of historical mining operations and/or waste disposal activities undertaken at the Camp Bird Mine Site. These releases of hazardous substances have resulted in soil, groundwater, and surface water contamination at and subjacent to the Site as well as possible contamination to water bodies near the Site. CBCI is the current owner of the Site and both CBCI and FRC were former owners and/or operators of the Camp Bird Mine facility during times of disposal of hazardous substances.

28. To date, and since the filing of the bankruptcies, the United States has incurred costs in responding to the Camp Bird Mine Site, including costs incurred by both EPA and the United States Department of Justice.

29. The conditions at the Camp Bird Mine Site present a variety of environmental problems including, but not necessarily limited to, the existence of uncovered waste rock and other mining waste piles. These wastes piles are roughly bisected by Canyon Creek and are loading significant amounts of heavy metals into the stream system. Tailings and waste materials are being readily eroded into Canyon Creek.

30. EPA's sampling shows there are concentrations of copper and zinc in the tailings and other waste material at the Site high enough to be toxic to aquatic life. Copper and zinc are

both listed as hazardous materials under CERCLA. An uncontrolled migration of hazardous substances threatens the creek's benthic invertebrate community and could pose a threat to fish.

31. A removal action would likely re-contour the footprint of over-steep waste piles to improve their structural stability. Waste piles would then be capped with rock, topsoil and vegetation to prevent the further releases into the creek.

32. EPA has performed an initial inspection of the Site and estimates that the costs of such future work at this Site will be between \$2.6 million and \$4.8 million. The ultimate cost of this work will depend on several factors including, but not limited to: what party performs the work; the extent of the removal or movement of the existing waste rock piles; the location of and ease of access to clean soils, rock, and compost that will be necessary to create appropriate cover for the waste rock piles and re-vegetate the disturbed areas; and the availability of heavy equipment and trucks.

33. FRC is jointly and severally liable for all response costs incurred or to be incurred at the Camp Bird Mine Site under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), because FRC is a former owner and/or operator of the Camp Bird Mine facility at the time of disposal of hazardous substances.

34. CBCI is jointly and severally liable for all response costs incurred or to be incurred at the Camp Bird Mine Site under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), because CBCI is the current owner of the facility and/or is a former owner and/or operator of the Camp Bird Mine facility at the time of disposal of hazardous substances.

35. In accordance with the judgments issued by the Idaho Court, FRC and CBCI are also liable for all response costs incurred or to be incurred at this site as they are the alter egos of

each other.

36. This Proof of Claim is filed with respect to all obligations and liabilities of CBCI and FRC pursuant to CERCLA, 42 U.S.C. §§ 9601 et seq. related to the Camp Bird Mine Site.

Debtor-Owned Sites

37. Both FRC and CBCI have, or may in the future have, environmental liabilities for properties that are part of their bankruptcy estates and/or for the migration of hazardous substances from properties that are part of their bankruptcy estates, including but not limited to their property at the Camp Bird Mine Site near Ouray, Colorado. Pursuant to 28 U.S.C. § 959(b), these Debtors are required to manage and operate estate property in accordance with non-bankruptcy law, including all applicable environmental statutes and regulations. Further, any reorganized debtor will be subject to liability under environmental law with respect to any property it owns or operates. The United States is not required to file a proof of claim relating to property of the estate other than for: (i) response costs incurred before the petition date; and (ii) civil penalties for days of violations occurring before the petition date. This Proof of Claim is also filed protectively with respect to post-petition liabilities and response costs relating to properties of the Debtors' estates.

38. Among other claims, the United States is entitled to an administrative expense priority for any response costs it incurs with respect to properties of the estates after the petition dates. The United States reserves the right to file applications for administrative expenses and to take other appropriate action in the future with respect to properties of the Debtors' estates.

Additional Terms

39. This Proof of Claim is filed as an unsecured non-priority claim, except to the

extent:

- (i) any rights of setoff secure the United States' claims;
- (ii) any secured/trust interest exists in insurance proceeds received by the Debtors on account of the United States' claims; and
- (iii) administrative priority exists with respect to the properties of the Debtors' estates, post-petition violations of law, or otherwise.

40. The United States will file any application for administrative expenses at the appropriate time.

41. This Proof of Claim is also filed to the extent necessary to protect the United States' rights with respect to any insurance proceeds received by Debtors, and any funds held in escrow by Debtors, in connection with the matters discussed herein.

42. This Proof of Claim is without prejudice to any right under 11 U.S.C. § 553 to set off, against this claim debts (if any) owed to the Debtors by these or any other federal agencies.

43. The Government has not perfected any security interest of its claims against the Debtors.

44. Neither Debtor has made any payments to the United States on the claims set forth herein.

45. This Proof of Claim reflects certain known liabilities of the Debtors to the United States. The United States reserves the right to amend this Proof of Claim to assert additional liabilities, including but not limited to liabilities for additional costs for the matters discussed herein.

46. Additional documentation in support of this Proof of Claim is too voluminous to

attach, but is available upon request.

47. The United States reserves the right to take further actions in the future to enforce any compliance obligations, including mandatory injunctive relief obligations, of the Debtors. Nothing in this Proof of Claim constitutes a waiver of any rights of the United States or an election of remedies.

Respectfully submitted,
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/s/ David L. Dain
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